

To Faculty Council Members: Your critical study of these minutes is requested. If you find errors, please contact Diane Maybon, at 1-5693 or dmaybon@colostate.edu.

NOTE: Final revisions are noted in the following manner: additions underlined; deletions ~~over scored~~.

***MINUTES
FACULTY COUNCIL***

October 6, 2009

CALL TO ORDER

The Faculty Council meeting was called to order at 4:00 p.m. by Richard Eykholt, Chair.

ANNOUNCEMENTS

- A. Next Faculty Council Meeting - November 3, 2009 - A104 Clark Building - 4:00 p.m.

Eykholt announced that the next Faculty Council meeting will be held on November 3, 2009 in Room A104 Clark Building. The meeting will begin at 4:00 p.m.

- B. Executive Committee Meeting Minutes

Eykholt announced that copies of the Executive Committee Meeting Minutes for August 18 and 25 and September 8 and 15, 2009 have been included in the agenda materials for informational purposes.

MINUTES TO BE APPROVED

- A. Faculty Council Meeting Minutes - September 1, 2009

The September 1, 2009 Faculty Council Meeting Minutes were approved by unanimous consent.

REPORTS TO BE RECEIVED

- A. Interim Provost/Executive Vice President

Rick Miranda, Interim Provost/Executive Vice President, reported that Joe O'Leary, Dean, Warner College of Natural Resources, has stepped down effective November 1, 2009. Miranda noted that Joyce Berry, Vice President for Advancement and Strategic Initiatives, will replace O'Leary for the remainder of his term as Dean.

Miranda reported that the Council of Deans will finalize new program reviews this week. Miranda explained that four planning committees have been created for budget planning. Miranda explained the duties of each committee as follows:

Tuition Modeling Committee - will make recommendations regarding tuition, such as differential tuition.

Tuition Distribution Committee - will make recommendations regarding the distribution of tuition - how to flow resources from tuition to units.

Budget Planning Committee - Ajay Menon, Dean, Engineering, and Sally Sutton, Chair, Committee on Strategic and Financial Planning, will co-chair this committee. This committee will make recommendations regarding University wide mechanisms for budget shortfalls, such as furloughs.

Efficiency Committee - Allison Dineen, Vice President for Finance and Tom Gorell, Senior Vice President for Administrative Services will co-chair this committee. This committee will investigate and make recommendations on how the University can be more efficient in areas such as procurement, information technology, investments, utility costs, etc.

Miranda noted that the University is planning for a six percent budget cut this fiscal year and up to 17 percent over several years. Currently, the University is looking at cuts based on a worst case scenario.

Miranda thanked all the faculty members who participated in the Inauguration. Miranda reported that a Fall Forum was held last week at the YMCA in Estes Park. He noted that vice presidents, deans, department chairs/heads, Faculty Council officers, Administrative Professional Council officers, Classified Personnel Council officers, and ASCSU officers were invited to attend the two half day forums. He added that over 15 presentations were made at the forum. The forum also allowed for networking between these units.

Miranda announced that Wendy Rich-Goldschmidt was named the new University Police Chief. Miranda noted that he has made several visits to departments and will continue to do so through the semester. Miranda reported that he will be going to China next week with Jim Cooney, Vice President for International Programs.

Miranda's report was received.

B. Faculty Council Chair

Eykholt reported that a search committee has been created for the Provost search. He asked faculty members to forward qualified candidate names to the search committee as the search committee is on a fast time-line and advertising has been through the web and not published in written publications.

Eykholt asked if anyone had questions regarding the H1N1 flu reporting system. Patricia Aloise-Young asked why the flu absences are considered a University Sanctioned Event and not just an excused absence. She added that this has caused problems for instructors teaching large classes. Eykholt explained that because the University has created the web-based self-reporting system for students to report that they have the flu, and that the students must stay at home and not go to the health center for documentation to help stop the spread of the flu, the University must give a University excused absence. Alan Lamborn explained that, in August, a group assembled to decide how to deal with the possibility of one or more major flu outbreaks this academic year. He noted that the Public Health authorities recommended the self-isolate plan, and the University must hold these students harmless and allow for excused absences. Kari Anderson asked what happens if a student self reports more than one time. Lamborn noted that reporting tools have been developed to track the self-reporting of students. A case worker contacts every student reporting more than once to see if they are really sick. In addition, after ten days, if students do not return to classes, this is tracked, and it will be ascertained if there is misuse or academic dishonesty involved. Lamborn added that students can be monitored to see if they are attending only certain classes. Anderson asked if faculty members can release student absence information to another faculty member. Lamborn responded that according to the "FERPA" policy faculty members can discuss student's academic issues.

Eykholt's report was received.

C. Board of Governors Faculty Representative

Dan Turk reported that he will have a complete report next month for the October 1 and 2, 2009 Board of Governors meeting. The report will also be posted on the Faculty Council website.

Turk noted that the Board meetings are held over two days. The first day is dedicated to committee meetings and the second day is dedicated to the actual Board business meeting. In addition, the Board has started having alternate monthly meetings for strategic planning discussions.

Turk's report was received.

UNFINISHED BUSINESS

A. Standing Committee Elections - Committee on Faculty Governance

Victor Baez, Vice Chair, Committee on Faculty Governance, nominated, on behalf of the Committee on Faculty Governance, the following faculty members to serve on the Faculty Council Standing Committees:

Committee on Intercollegiate Athletics
Carl Burghardt- Liberal Arts

Committee on Responsibilities and Standing of Academic Faculty
Dawn Thilmany - Agricultural Sciences

Committee on Teaching and Learning
Stephanie Clemons - Applied Human Sciences

Eykholt asked if there were any other nominations for the Faculty Council Standing Committees.

Hearing no further nominations the nominations were closed.

All faculty members nominated above were elected to serve three years terms from July 1, 2009 to June 30, 2012 on the above Faculty Council Standing Committees.

Eykholt noted that the Committee on Scholarship, Research, and Graduate Education needs a replacement for the Fall semester for the College of Natural Sciences. He asked that if anyone was interested to contact him.

B. University Discipline Panel Election - Committee on Faculty Governance

Baez, Vice Chair, Committee on Faculty Governance, nominated, on behalf of the Committee on Faculty Governance, the following faculty member to serve on the Faculty Council University Discipline Panel:

Laurie Carlson - Applied Human Sciences

Eykholt asked if there were any other nominations for the University Discipline Panel.

Hearing no further nominations the nominations were closed.

Laurie Carlson was elected to serve a three year terms from July 1, 2009 to June 30, 2012 on the University Discipline Panel.

C. University Benefits Committee Election - Committee on Faculty Governance

Baez, Vice Chair, Committee on Faculty Governance, nominated, on behalf of the Committee on Faculty Governance, the following faculty member to replace Robert Liebler on the University Benefits Committee:

Michelle (Mica) Glantz - Liberal Arts

Eykholt asked if there were any other nominations for the University Benefits Committee.

Hearing no further nominations the nominations were closed.

Michelle (Mica) Glantz was elected to replace Robert Liebler on the University Benefits Committee beginning immediately through June 30, 2011.

Eykholt announced that there are still four openings on the Grievance Panel, one opening on the Sexual Harassment Panel, and a faculty representative is also needed for the Parking Management Committee.

CONSENT AGENDA

- A. Changes in Curriculum to be Approved: University Curriculum Committee Minutes: August 28, September 4, and 11, 2009
- B. Approval of Degree Candidates - Fall Semester 2009

Carole Makela, Chair, University Curriculum Committee, moved that Faculty Council approve the above Consent Agenda items.

Makela's motion was adopted and the Consent Agenda items were approved.

SPECIAL ACTIONS

- A. Election - Undergraduate and Graduate Student Representatives to Faculty Council Standing Committees - Committee on Faculty Governance

Baez, Vice Chair, Committee on Faculty Governance, moved that Faculty Council elect the undergraduate and graduate student representatives nominated by the Committee on Faculty Governance to the Faculty Council Standing Committees for one (1) year terms (2009-2010) as follows:

Committee on Intercollegiate Athletics

Noah Sandoval	Undergraduate
Elise Donovan	Graduate

Committee on Libraries

Dave Ambrose	Undergraduate
Nicholas Swails	Graduate

Committee on Strategic and Financial Planning

TBA	Undergraduate
Nicholas Swails	Graduate

Committee on Teaching and Learning

Jenika Howe	Undergraduate
Seth Anthony	Graduate

Committee on University Programs

TBA	Undergraduate
Sarah Hobdey	Graduate

University Curriculum Committee

Conrad Miller	Undergraduate
TBA	Graduate

Committee on Scholarship, Research and Graduate Education

Tamla Blunt	Graduate
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The undergraduate and graduate student representatives nominated to the Faculty Council Standing Committees were elected for one year terms - October 2009 - June 2010.

- B. Request to Revise the Minimum Grade Requirement - History Major - University Curriculum Committee

Makela, Chair, University Curriculum Committee, moved that Faculty Council approve the request to drop the minimum grade requirement of "B" for SPCM 200, Public Speaking in the social studies teaching concentration, history major (B.A. degree program) as follows:

~~“Students must earn a B in SPCM 200 for it to count toward certification.”~~

Makela explained that, according to the department, the current minimum grade requirement for SPCM 200 is out of line with the minimum grade requirement of “C” for required EDUC courses and required content courses in the social students teaching concentration, history major. In addition, the History Department has not enforced this requirement for several years, and waiver/appeal paperwork must be submitted for each student who earns a B-, C+, or C.

Makela’s motion was adopted.

C. Proposed Revisions to the *Manual*, Section D.2.1 - Benefits Committee - Committee on Responsibilities and Standing of Academic Faculty

David Greene, Chair, Committee on Responsibilities and Standing of Academic Faculty, moved that Faculty Council adopt the proposed revisions to the *Manual*, Section D.2.1 - Benefits Committee, to be effective upon approval by the Board of Governors of the Colorado State University System as follows:

Additions are Underlined Deletions are ~~Over-scored~~

D.2.1 Benefits Committee (~~last revised February 6, 2001~~)

The Benefits Committee advises the University administration regarding benefit programs for academic faculty and administrative professionals. The Benefits Committee consists of four (4) academic faculty members, four (4) administrative professionals, ~~and~~ a retired academic faculty member or administrative professional, and the Chair of the Classified Personnel Council as an *ex officio, non-voting member*. At least one (1) representative of the academic faculty and one (1) representative of the administrative professionals shall be elected each year. Each representative on the Benefits Committee shall serve a three (3) year term. The retired academic faculty or administrative professional shall serve a three (3) year term and shall be appointed by the Provost, based on nominations from retirees. Academic faculty members shall be nominated by the Faculty Council Committee on Faculty Governance who shall provide nominees for election by the Faculty Council. Administrative professionals shall be elected by the Administrative Professional Council. Terms of office shall begin on July 1. The Chair of the Benefits Committee shall present an annual report to Faculty Council and the Administrative Professional Council.

Greene explained that most of the benefits discussed by the Benefits Committee affect only faculty and administrative professionals. However, some of the benefits (such as the study privilege) affect State Classified personnel as well. Thus, this committee should have some representation from the Classified Personnel Council.

Greene’s motion was adopted.

D. Proposed Revisions to the *Graduate and Professional Bulletin* - Application: U.S. Citizens or Permanent Residents (Page 15) - Committee on Scholarship, Research, and Graduate Education

Karrin Anderson, Chair, Committee on Scholarship, Research, and Graduate Education, moved that Faculty Council adopt the proposed revisions to the *Graduate and Professional Bulletin* - Application: U.S. Citizens or Permanent Residents (Page 15) to be effective upon Faculty Council approval as follows:

Additions are underlined Deletions are ~~strikeouts~~

APPLICATION: U.S. CITIZENS OR PERMANENT RESIDENTS

Applications may be made on-line by accessing the following website:

www.graduateschool.colostate.edu

The on-line application will be electronically submitted to the Office of Admissions and then forwarded to the appropriate academic departments. In addition to the on-line application, a \$50 non-refundable application fee must be electronically submitted.

The following must be sent directly to the department in which the applicant plans to study (see Directory of Departmental and Program Contact Persons for proper address).

1. Two official transcripts of all collegiate work completed. (Colorado State University transcripts are not required.)
2. Three letters of recommendation must be sent to the academic department to which you are applying. There is no standardized format unless specified by your department.
3. Any other information that individual departments may require of applicants to particular programs. Applicants are advised to contact the departments regarding additional application materials such as the GRE or GMAT.
4. Regardless of citizenship, applicants may be required to demonstrate proof of English language proficiency if they do not have a degree from an institution in a country where the official language is English.

Anderson explained that these revisions clarify when U.S. citizens and permanent residents will be required to demonstrate proof of English language proficiency.

Steve Reisling asked if this language was similar for foreign citizens. Eykholt responded that the language was the same as used in the *Bulletin* and *Catalog* for foreign citizens. Lamborn asked for a definition of the term "official language." He asked if this should be clarified as language of instruction. Louann Reid pointed out that this point needs to be examined and asked if a federal law exists that states the official language of the United States is English.

Peter Dorhout moved to amend the main motion as follows:

4. Regardless of citizenship, applicants may be required to demonstrate proof of English language proficiency if they do not have a degree from an institution where the primary language of instruction is English.

Dorhout's motion to amend the main motion was adopted.

It was noted that language in the *Bulletin* and *Catalog* should be revised to reflect this language. Eykholt noted this to Makela, Chair of the University Curriculum Committee, and Anderson, Chair of the Committee on Scholarship, Research, and Graduate Education.

Anderson's amended main motion was adopted as follows:

Additions are underlined Deletions are ~~strikeouts~~

APPLICATION: U.S. CITIZENS OR PERMANENT RESIDENTS

Applications may be made on-line by accessing the following website:

www.graduateschool.colostate.edu

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3. Any other information that individual departments may require of applicants to particular programs. Applicants are advised to contact the departments regarding additional application materials such as the GRE or GMAT.
4. Regardless of citizenship, applicants may be required to demonstrate proof of English language proficiency if they do not have a degree from an institution where the primary language of instruction is English.

E. Proposed Revisions to the *Graduate and Professional Bulletin* - Graduate School Appeals Procedure (Page 20) - Committee on Scholarship, Research, and Graduate Education

Anderson, Chair, Committee on Scholarship, Research, and Graduate Education, moved that Faculty Council adopt the proposed revisions to the *Graduate and Professional Bulletin* - Graduate School Appeals Procedure (Page 20) to become effective upon approval as follows:

Additions are underlined Deletions are ~~strikeouts~~

.....

A review panel, composed of ~~two~~ four faculty members with degrees at the level being pursued by the student appellant or higher and ~~a~~ one graduate student pursuing a degree at that level or above, will be appointed. ~~One~~ Two faculty members will be appointed by the Vice Provost for Graduate Affairs and ~~another two~~ two faculty members will be appointed by the dean of the college in which the student appellant's program is located. These appointees will be from departments other than that of the student appellant, but they should be from related disciplines so they are reasonably familiar with the standard procedures in that department. In the event that either ~~of these two~~ deans the Vice Provost or the dean is a principal in the case, the Provost will appoint appropriate faculty members. The Graduate Student Council will provide a list of graduate students pursuing graduate degrees who are willing to serve on review panels from which the Vice Provost for Graduate Affairs will appoint a student who is from a different department other than that of the student appellant, but who should be from a related discipline. In the event that the Vice Provost for Graduate Affairs is a principal in the case, the Provost will appoint the student member.

The Review Panel will consider the case in detail. It must review any written record of the case. It must afford the student appellant an opportunity to appear in person before it and consider any relevant written materials the student may wish to bring to its attention. The panel will hear from the academic officer(s) whose action is being appealed and may confer with other involved parties. It shall evaluate any other information it deems important to its deliberations. Written summaries of the deliberations will be kept. To overcome the presumption of good faith in the performance judgment by the adviser, supervisor, and/or graduate committee, an appeal must demonstrate that the evaluation was based upon matters that are inappropriate or irrelevant to academic performance and applicable professional standards and that consideration of those matters was the deciding factor in the evaluation. If the panel finds in favor of the student by a majority vote, it will make appropriate recommendations to the Vice Provost for Graduate Affairs, such as reassignment to another adviser and/or graduate committee, administration of another examination, or alternative assistantship assignment. The Vice Provost for Graduate Affairs and the dean of the college involved shall jointly review the case, giving due consideration to the panel's report and recommendations. Following consultation with the Provost, as appropriate, the Vice Provost for Graduate Affairs shall make the final decision of the University. In the event where the Vice Provost for Graduate Affairs is a principal in the case, the duties of the Vice Provost for Graduate Affairs, with respect to this case, shall be transferred to the Provost. In the event that the decision recommends termination of an assistantship due to unavailability of funds or other conditions beyond the University's control or due to a lack of performance of assigned duties and functions as set forth in the terms and conditions applicable to graduate assistant appointments, the termination must be approved by the Board of Governors, or the President, as its delegated representative.

Anderson explained that these changes help to ensure that the review panel has the necessary expertise to judge the appeal.

Matthew Malcolm noted that the change would have a ratio of one student to four faculty members and the old language was one student to two faculty members. He added that this seems to be a heavier balance on the faculty side and asked why this membership was revised. Anderson responded that this membership mirrors the composition of a graduate committee. Dan Gearhart, President of the Associated Students of Colorado State University, added that the composition of one student to two faculty members is more equitable. Phil Chapman pointed out the if the ratio is currently 2-1 then the new ratio would become 4-2, but an odd number of members is preferable. Peter Dorhout, Vice Provost for Graduate Affairs, explained that he would be comfortable keeping the old ratio of one student to two faculty members. Ken Klopenstein noted that the criteria for appointment to this appeals committee is clear, however it is not clear why the membership of the committee needs revised.

Reid moved to amend the main motion as follows:

A review panel, composed of two faculty members with degrees at the level being pursued by the student appellant or higher and one graduate student pursuing a degree at that level or above, will be appointed. One faculty member will be appointed by the Vice Provost for Graduate Affairs and another faculty member will be appointed by the dean of the college in which the student appellant's program is located. These appointees will be from departments other than that of the student appellant, but they should be from related disciplines so they are reasonably familiar with the standard procedures in that department. In the event that either ~~of these two deans~~ the Vice Provost or the dean is a principal in the case, the Provost will appoint appropriate faculty members. The Graduate Student Council will provide a list of graduate students pursuing graduate degrees who are willing to serve on review panels from which the Vice Provost for Graduate Affairs will appoint a student who is from a different department ~~other than that of~~ the student appellant, but who should be from a related discipline. In the event that the Vice Provost for Graduate Affairs is a principal in the case, the Provost will appoint the student member.

Reid's amendment to the main motion was adopted.

Cafaro asked what is the purpose of these committees. Dorhout responded that fewer than one a year go through a review process. He explained that the student must specify what process was unfair and how this could be resolved. The review process cannot review the academic evaluation of the student's abilities, and the student cannot dispute the academic evaluation of the student's abilities. Only the process can be reviewed.

Cafaro moved to reconsider the motion to amend the main motion.

Cafaro's motion was not adopted.

Anderson's amended motion was adopted as follows:

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.....
A review panel, composed of two faculty members with degrees at the level being pursued by the student appellant or higher and one graduate student pursuing a degree at that level or above, will be appointed. One faculty member will be appointed by the Vice Provost for Graduate Affairs and another faculty member will be appointed by the dean of the college in which the student appellant's program is located. These appointees will be from departments other than that of the student appellant, but they should be from related disciplines so they are reasonably familiar with the standard procedures in that department. In the event that either ~~of these two deans~~ the Vice Provost or the dean is a principal in the case, the Provost will appoint appropriate faculty members. The Graduate Student Council will provide a list of graduate students pursuing graduate degrees who are willing to serve on review panels from which the Vice Provost for Graduate Affairs will appoint a student who is from a different department ~~other than that of~~ the student appellant, but who should be from a related discipline. In the event that the Vice Provost for Graduate Affairs is a principal in the case, the Provost will appoint the student member.

The Review Panel will consider the case in detail. It must review any written record of the case. It must afford the student appellant an opportunity to appear in person before it and consider any relevant written materials the student may wish to bring to its attention. The panel will hear from the academic officer(s) whose action is being appealed and may confer with other involved parties. It shall evaluate any other information it deems important to its deliberations. Written summaries of the deliberations will be kept. To overcome the presumption of good faith in the performance judgment by the adviser, supervisor, and/or graduate committee, an appeal must demonstrate that the evaluation was based upon matters that are inappropriate or irrelevant to academic performance and applicable professional standards and that consideration of those matters was the deciding factor in the evaluation. If the panel finds in favor of the student by a majority vote, it will make appropriate recommendations to the Vice Provost for Graduate Affairs, such as reassignment to another adviser and/or graduate committee, administration of another examination, or alternative assistantship assignment. The Vice Provost for Graduate Affairs and the dean of the college involved shall jointly review the case, giving due consideration to the panel's report and recommendations. Following consultation with the Provost, as appropriate, the Vice Provost for Graduate Affairs shall make the final decision of the University. In the event where the Vice Provost for Graduate Affairs is a principal in the case, the duties of the Vice Provost for Graduate Affairs, with respect to this case, shall be transferred to the Provost. In the event that the decision recommends termination of an assistantship due to unavailability of funds or other conditions beyond the University's control or due to a lack of performance of assigned duties and functions as set forth in the terms and conditions applicable to graduate assistant appointments, the termination must be approved by the Board of Governors, or the President, as its delegated representative.

DISCUSSION

A. Associated Students of Colorado State University (ASCSU) - Officers' Report on Student Issues

Eykholt introduced Dan Gearhart, President, ASCSU, and Conrad Miller, Director of Academics, ASCSU. Gearhart thanked Faculty Council for the opportunity to speak to the Council regarding issues facing students this academic year. He noted three areas of concern to students: textbooks, taking a more active role in Higher Education, and re-evaluating the final exam schedule.

Miller reported that 72.8 percent of all book order are late, and this costs students an additional \$550,000. The ASCSU would like to encourage faculty members to get book order in on time. He added that the administration is on board with the recommendation. In addition, members of ASCSU would like to have a hard copy of all textbooks in the Library. This would allow students, especially students in Physics, Chemistry, and Math courses, to use reserve books to study. In addition, the possibility of a textbook exchange, similar to Craig's List, is being reviewed. This would allow students an on-line data base to exchange books. It would also cut overhead costs and the middle man making books more affordable. The ASCSU is also looking into becoming more involved regarding how tuition and fee money is distributed. Currently, the Board of Governors has the final decision on these budget issues.

Finally, ASCSU would like to revise the class final schedule to eliminate the 7:00 a.m. finals. Gearhart explained that they are working with the Registrar's office to change the times for finals to 9:00 to 5:00 p.m. Lamborn responded that there are obstacles to this, and he would welcome meeting with Gearhart and Miller on this issue.

It was pointed out that some students with special needs require more time for finals and that should be considered. Someone asked if ASCSU has looked at renting textbooks. Gearhart responded that issue has not been explored. Reid pointed out that many colleges hire adjuncts to teach, and their contracts may not allow them to place book order in a timely manner. Anderson also pointed out that she offered a digital on-line version of her textbook, and fewer than ten students used this option. She noted that ASCSU should explore what the student will use and adopt. It was also noted that the Library would need a huge amount of space to accommodate every textbook used on campus.

Eykholt asked that faculty send any other comments to ASCSU.

B. Arbitration

Eykholt referred Faculty Council members to the information included in the agenda packet regarding arbitration. Eykholt noted that in this discussion there are two key issues he would like considered. First, do the members of Faculty Council, representing the views of the Colorado State University Faculty, support or oppose the addition of binding arbitration to Section K as an optional alternative to the current grievance process, and second, if there is support for this idea, is there enough support to fight with administration over this issue?

Eykholt introduced Steve Mumme, President AAUP CSU Chapter, and Ray Hogler, Professor Department of Management, to Faculty Council. Steve Mumme noted that discussions regarding arbitration have been on-going with Faculty Council and its Committee on Responsibilities and Standing of Academic Faculty (CORSAF) since 2006. He noted that CORSAF is currently reviewing revisions to Section K of the *Manual* regarding the grievance process.

Hogler presented the virtues of arbitration. Hogler referred to the materials submitted in the agenda materials. He explained that arbitration can be more effective than the grievance policy because an outside third party makes a binding decision. Hogler noted that the General Counsel defers to the ruling by the State Attorney General that arbitration is not legal and cannot be used at Colorado State University. Hogler noted that he and the AAUP disagrees with this ruling. He noted that pages 63 and 64 of the agenda materials contain the AAUP response to the ruling regarding arbitration and Colorado Law. He added that Faculty Council makes decisions about how to govern and should be allowed to decide if this issue should be debated. Hogler explained that he has requested that Representative John Kefalas request another opinion on the issue of arbitration from the Attorney General. He added that information is forthcoming. Hogler noted that, in the meantime, the AAUP would like faculty consideration of this issue.

Miranda presented the following “cons” of arbitration:

- The expertise of arbitrators could vary, especially regarding higher education.
- Arbitration could cost the faculty member more than the grievance process.
- The grievance process involves faculty who have been trained and have knowledge of our *Manual* and legal issues. An arbitrator is not bound by the law or case law.
- Arbitration requires the employee to waive any rights of redress. The grievance process allows an appeal through the court system.
- The current Board of Governors does not support arbitration, but this does not mean we cannot challenge this position.

Hogler responded:

- The arbitrators would be selected by the University.
- The overall cost of arbitration is not as great as a grievance process that goes through the court system.
- Arbitrators are bound by law.
- Waiver of rights is not uncommon. Former President Larry Penley waived all his rights against the University for his severance award.
- Before an issue goes to court you must go through the grievance process, which could take years.
- The Board of Governors needs more information regarding arbitration before they make a decision against arbitration.

Steve Robinson asked what is the motivation for adding arbitration. He asked if there was something wrong with the grievance process, and, if so, asked for a case by case evaluation. He noted that the grievance process may not be broken. Eykholt responded that there have been some objections to the grievance process but a case by case evaluation is not possible, because the cases are confidential, and the administration cannot release this information. He added that a grievance survey has been initiated and will be sent to all faculty and administrative professionals later this month. Hogler pointed out that arbitration would be another option, and the AAUP does not want to eliminate the grievance process that is currently in place at Colorado State University.

Eric Aoki stated that he and Anderson sent out an email to their constituents in the College of Liberal Arts regarding this issue and only six people responded. Out of the six - four people agreed in principal with the AAUP outline for arbitration. He added that two people were concerned about the speed that this issue was brought forward, costs of arbitration, and that it should be an option only and will not replace the current grievance process.

Ursula Daxecker added that it is difficult to determine if this issue should be pursued without additional information. Malcolm asked what costs are associated with a grievance procedure and how do we know that a grievance process is more expensive than arbitration. Miranda responded that there is no cost to the faculty member to invoking a grievance. However, the University has some costs for grievances. Miranda added that there could be costs associated with the arbitration procedure.

Phillip Chapman asked if there is any information regarding numbers of grievances. Eykholt responded that there are reports submitted each year with numbers and no grievances or lawsuits have been filed for seven years. Every case has been settled with mediation. Eykholt added that different people interpret this to mean the process is either working or not working.

Antonio Pedros-Gascon asked why the arbitration process is not legal. Mike Nosler, General Council, Colorado State University System, responded that the Attorney General has ruled that this is unlawful in Colorado because State statutes and the Constitution state that the governing boards of State higher education institutions have the right to delegate certain powers to the Chief Executive Officer, but cannot delegate power to a non-political person. He added the Board of Governors has complete authority on personnel matters and fiscal rules. Delegation to an arbitrator would be illegal. It was asked if the legislature could act on this and change the statute. Eykholt noted that the legislature probably could change this, but there may be constitutional issues involved. Hogler added that the AAUP is waiting upon the new opinion that Representative Kefalas has requested from the Attorney General. Mumme added that arbitration would enhance the rights of the faculty, give more options, and would expedite the process, because grievances can go on for years. He added that some people do not pursue the grievance process because they are intimidated by the process.

Courtney Butler, Chair, Administrative Professional Council, asked if the arbitration process would include administrative professionals. Butler explained that this process would cause problems for the administrative professional employees because they are at-will employees. Turk added that it would be helpful to have all the pros and cons of arbitration posted on the Faculty Council website so faculty could make more informed decision as to pursue or not pursue. Eykholt stated that there is only one issue to decide - should Faculty Council pursue the issue of arbitration. He added that as long as the Board of Governors and the Attorney General consider this illegal, he does not think it should be pursued, as there would be no hope for success.

Anderson asked if the grievance survey could add a question if Faculty Council should pursue arbitration. Eykholt noted that the grievance survey is to ascertain satisfaction for the grievance process, and no information regarding arbitration is included in the survey. He added that the committee did discuss this issue and decided not to include a question regarding arbitration due to the complexity of the background information. Pedros-Gascon pointed out that the law may change and he feels a moral obligation to pursue this issue. Reid thanked the AAUP for their work on this issue, but stated it is not clear that there is compelling need to pursue arbitration. Greene added that the compelling need comes from the grievance process. Greene said that there is need to know about the grievance process and because all the information regarding the grievance process is confidential, how can we ascertain if an alternative is needed. Eykholt responded that the survey is a new process that will help ascertain if the grievance process is working. Hogler added that he would be able to provide information regarding arbitration and the Attorney General's opinion on this matter for posting on the Faculty Council website. Eykholt pointed out the information from the Attorney General's office is privileged and cannot be posted. Turk encouraged that the materials be posted. Gerry Callahan asked if the Attorney General has a new opinion, will Faculty Council pursue this issue. Makela asked if the survey would cover a broad spectrum of responses. Eykholt responded yes. Anderson suggested that stakeholders send their comments to the Faculty Council office regarding the arbitration process. Robinson stated that, unless there is clear reason to pursue this, it would be a waste of time to pursue. He suggested waiting for the new ruling on arbitration before pursuing. Steve Stack added that, if the process is secret, there is no way to judge the grievance process. Eykholt explained that the University cannot disclose information, but faculty members that have gone through the grievance process can disclose information. The problem is that we do not know which faculty members have gone through the grievance process.

Eykholt thanked everyone for their participation in this discussion.

The Faculty Council meeting adjourned at 6:50 p.m.

Richard Eykholt, Chair
Tim Gallagher, Vice Chair
Diane L. Maybon, Secretary

ATTENDANCE
BOLD INDICATES PRESENT AT MEETING
UNDERLINE INDICATES ABSENT AT MEETING

Agricultural Sciences

Stephen Koontz	Agricultural and Resource Economics
Denny Crews	Animal Sciences
John McKay for William Jacobi	Bioagricultural Sciences & Pest Management
Harrison Hughes, Excused	Horticulture & Landscape Architecture
Craig Butters	Soil and Crop Sciences
Dennis Lamm	College-at-Large
Louis Bjostad	College-at-Large

Applied Human Sciences

Molly Eckman	Design and Merchandising
Robert Gotshall	Health and Exercise Science
David Sampson	Food Science and Human Nutrition
Christine Fruhauf	Human Development and Family Studies
<u>Mary Nobe</u>	<u>Construction Management</u>
Matthew Malcolm	Occupational Therapy
Carole Makela	School of Education
Victor Baez for Kim Bundy-Fazioli	School of Social Work

Business

Bill Rankin	Accounting
Stephen Hayne	Computer Information Systems
Patricia Ryan, Excused	Finance and Real Estate
Ray Hogler for Jim McCambridge	Management
Dave Gilliland	Marketing

Engineering

<u>Scott Denning</u>	<u>Atmospheric Science</u>
Laurence Belfiore	Chemical and Biological Engineering
Ken Carlson	Civil and Environmental Engineering
Steve Reising	Electrical and Computer Engineering
Hiroshi Sakurai	Mechanical Engineering
<u>Xianghong Qian</u>	<u>College-at-Large</u>
Colette Heald	College-at-Large

Liberal Arts

<u>Christopher Fisher</u>	<u>Anthropology</u>
Catherine Dicesare	Art
Kirsten Broadfoot	Communication Studies
David Mushinski	Economics
Louann Reid	English
<u>Ernesto Sagas</u>	<u>Ethnic Studies</u>
Antonio Pedros-Gascon (Sub. for J. Carlyon)	Foreign Languages and Literatures
Thaddeus Sunseri	History
<u>Cindy Christen</u>	<u>Journalism and Technical Communication</u>
Joel Bacon	Music, Theater, and Dance
Matthew MacKenzie	Philosophy
Ursula Daxecker	Political Science
Ken Berry	Sociology
Karrin Anderson	College-at-Large
Eric Aoki	College-at-Large
Phil Cafaro	College-at-Large

Natural Resources

<u>Barry Noon</u>	<u>Fish, Wildlife, and Conservation Biology</u>
Mark Paschke	Forest, Rangeland, and Watershed Stewardship
Sven Egenhoff	Geosciences
Alan Bright	Human Dimensions of Natural Resources

Natural Sciences

<u>Eric Ross</u>	<u>Biochemistry and Molecular Biology</u>
David Steingraeber	Biology
George Barisas	Chemistry
<u>Dale Grit</u>	<u>Computer Science</u>
Ken Klopfenstein	Mathematics
Raymond Robinson	Physics
Patricia Aloise-Young	Psychology
Phillip Chapman	Statistics
Steve Stack	College-at-Large
Elizabeth Pilon-Smits	College-at-Large
Miguel Mostafa, Excused	College-at-Large

Veterinary Medicine & Biomedical Sciences

James Madl	Biomedical Sciences
Juliet Gionfriddo	Clinical Sciences
Howard Ramsdell	Environmental & Radiological Health Sciences
Robert Jones	Microbiology, Immunology and Pathology
Hana VanCampen	College-at-Large
Gerry Callahan	College-at-Large
C. W. Miller	College-at-Large
<u>Julie Inamine</u>	<u>College-at-Large</u>
<u>Paul Morley</u>	<u>College-at-Large</u>
<u>Jeffrey Wilusz</u>	<u>College-at-Large</u>

University Libraries

Dawn Bastian Paschal	Libraries
Louise Feldmann	At-Large

Officers

Richard Eykholt	Chair, Faculty Council
Tim Gallagher	Vice Chair, Faculty Council
Dan Turk	BOG Faculty Representative
Diane Maybon	Executive Assistant/Secretary
Lola Fehr	Parliamentarian

Ex Officio Voting Members (*Indicates Elected Member of Faculty Council)

Victor Baez for Don Estep, Chair	Committee on Faculty Governance
Susan LaRue, Chair, Excused	Committee on Intercollegiate Athletics
Nancy Hunter, Chair	Committee on Libraries
David Greene, Chair	Committee on Responsibilities & Standing of Academic Faculty
Kari Anderson, Chair*	Committee on Scholarship Research and Graduate Education
Merinda McLure, Chair	Committee on Scholastic Standards and Awards
Sally Sutton, Chair	Committee on Strategic and Financial Planning
Margarita Lenk, Chair	Committee on Teaching and Learning
<u>Patty Rettig, Chair</u>	<u>Committee on University Programs</u>
Carole Makela, Chair*	University Curriculum Committee

Ex-Officio Non-Elected Non-Voting Members

Anthony Frank	President
Rick Miranda	Interim Provost/Senior Vice President
<u>Bill Farland</u>	<u>Senior Vice President for Research and Engagement</u>
<u>Robin Brown</u>	<u>Vice President for Enrollment and Access</u>
Blanche M. Hughes	Vice President for Student Affairs
Peter Dorhout	Vice Provost for Graduate Affairs
<u>Lou Swanson</u>	<u>Vice Provost for Outreach and Strategic Partnerships</u>
Alan Lamborn	Vice Provost for Undergraduate Affairs
<u>Craig Beyrouthy</u>	<u>Dean, College of Agricultural Sciences</u>
April Mason	Dean, College of Applied Human Sciences
<u>Ajay Menon</u>	<u>Dean, College of Business</u>
<u>Sandra Woods</u>	<u>Dean, College of Engineering</u>
<u>Ann Gill</u>	<u>Dean, College of Liberal Arts</u>
Jan Nerger	Interim Dean, College of Natural Sciences
<u>Pat Burns</u>	<u>Interim Dean, University Libraries</u>
Lance Perryman	Executive Dean and Dean, College of Veterinary Medicine and Biomedical Sciences
<u>Joe O'Leary</u>	<u>Dean, Warner College of Natural Resources</u>
Courtney Butler	Chair, Administrative Professional Council